

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BARRY E. SHELLEY,)	
)	
Petitioner,)	
v.)	Civil No. 09-80 Johnstown
RANDALL BRITTON,)	
SUPERINTENDENT, S.C.I.)	
HOUTZDALE,)	
)	
Respondent.)	

MEMORANDUM ORDER

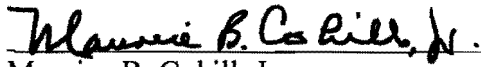
This matter were referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on May 27, 2010 (Doc. No. 11), recommending that petitioner's petition for a writ of habeas corpus be denied as moot and because the petitioner's claims were procedurally defaulted, and that a certificate of appealability be denied.

The parties were notified that, pursuant to 28 U.S.C. § 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation. Petitioner timely filed objections and a brief (Doc. Nos. 12 & 13), which repeat the arguments advanced in his filing of last August (Doc. No. 10).

After de novo review of the record of this matter together with the Report and Recommendation, and the objections thereto, the following order is entered:

AND NOW, this 14th day of June, 2010, it is hereby ORDERED, ADJUDGED, and DECREED that petitioner's petition for a writ of habeas corpus is denied. A certificate of appealability is denied. The portion of the Report and Recommendation recommending denial of the petition on the grounds of procedural default is adopted as the opinion of the Court. The Clerk shall mark this matter closed.


Maurice B. Cohill, Jr.
Senior United States District Judge

Notice by U.S. Mail to:

Barry Shelley
364 Covered Bridge Road
Rockwood, PA 15557